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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

ZURITA, JAMES H

ART UNIT	PAPER NUMBER
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3625

DATE MAILED: 02/03/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/360,422

Applicant(s)

WALKER ET AL.

Examiner

James H. Zurita

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-72 and 74-126 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-72 and 74-126 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Prosecution History

The following is provided to clarify the record.

On 23 July 1999, applicant filed the instant application.

On 12 February 2002, the Examiner issued a non-final rejection of claims 1-118 as anticipated by Walker (US 6,138,105).

On 17 May 2002, applicant claimed priority as a continuation-in-part (CIP) to 09/085,424, filed 27 May 1998, now US 6,138,105, issued 24 October 2000.

On 19 August 2002, the Examiner issued a non-final rejection of claims 1-118 as unpatentable over Cheliah (US 5,710,887).

On 19 February 2003, applicant replied to the non-final rejection.

On 5 May 2003, the Examiner issued a final rejection of claims 1-118 as unpatentable over Cheliah (US 5,710,887).

On 31 July 2003, applicant filed a request for continued examination. Applicant cancelled claim 73. Claims 1, 2, 9, 11, 13, 15, 17, 19, 22, 28, 30, 33, 35, 47, 48, 74, and 108 were the only pending independent claims.

On 22 October 2003, the Examiner issued a non-final rejection of claims 1-72 and 74-118 as unpatentable over Blinn (US 5,897,622).

On 18 February 2004, Applicant added claims 119-126. Claims 1-72 and 74-126 were pending.

On 4 August 2004, the Examiner advised applicant that his amendment of 4 April 2004 was not fully responsive, and gave applicant one month to reply.

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On 23 August 2004, applicant responded to the prior notice.

On 17 November 2004, the Examiner issued a final rejection of the claims:

Claims 1-72 and 74-118 *are rejected under* 35 U.S.C. 103(a) as being unpatentable over Blinn et al. (US Patent 5,897,622) in view of Peirce (US.6,332,126).

Claims 119-126 *are rejected under* 35 U.S.C. 103(a) as being unpatentable over Blinn et al. (US Patent 5,897,622) in view of Bernard (US 5918213).

On 3 February 2005, applicant filed a notice of appeal

On 22 April 2005, amended claims 2, 9, 11, 13, 15, 17, 19, 22, 28, 30, 35, 48, 123 and 124 to place the claims in better condition for appeal.

On 2 May 2003, the Examiner recommended the amendment for entry.

On 9 May 2005, the Examiner issued an advisory action

On 4 August 2005, applicant filed an appeal brief.

Response to Appeal Brief

In view of the appeal brief filed on 4 August 2005, PROSECUTION IS HEREBY REOPENED. A new ground for rejection is set forth below.

To avoid abandonment of the application, appellant must exercise one of the following two options:

(1) file a reply under 37 CFR 1.111 (if this Office action is non-final) or a reply under 37 CFR 1.113 (if this Office action is final); or,

(2) initiate a new appeal by filing a notice of appeal under 37 CFR 41.31 followed by an appeal brief under 37 CFR 41.37. The previously paid notice of appeal fee and appeal brief fee can be applied to the new appeal. If, however, the appeal fees set forth

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in 37 CFR 41.20 have been increased since they were previously paid, then appellant must pay the difference between the increased fees and the amount previously paid.

A Supervisory Patent Examiner (SPE) has approved of reopening prosecution by signing below.

Response to Arguments

Applicant's arguments with respect to claims 1-72 and 73-126 have been very carefully considered but are moot in view of the new ground(s) of rejection.

The Examiner will take advantage of this opportunity to elaborate on prior Office Actions and to further address applicant's concerns in regard to the previous rejections.

Priority

On 17 May 2002, applicant claimed priority, as a CIP, to application 09/085,424, filed 27 May 1998, now US **6,138,105**, issued 24 October 2000.

Application 09/085,424 itself claims priority as a continuation-in-part of U.S. patent application Ser. No. 09/012,163 entitled "Method and Apparatus for Automatically Vending a Group of Products" filed Jan. 22, 1998, now **6,397,193** issued 28 May 2002, which is a continuation-in-part of commonly owned, co-pending U.S. patent application Ser. No. 08/947,798 entitled "Method and Apparatus for Dynamically Managing Vending Machine Inventory Prices" filed Oct. 9, 1997, abandoned, and a continuation-in-part of commonly owned, co-pending U.S. patent application Ser. No. 08/920,116 entitled "Method and System for Processing Supplementary Product Sales at a Point-of-Sale

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Terminal" filed Aug. 26, 1997, now US **6,119,099** issued 12 September 2000, which is a continuation-in-part of U.S. patent application Ser. No. 08/822,709 entitled "System and Method for Performing Lottery Ticket Transactions Using Point-of-Sale Terminals" filed Mar. 21, 1997, now US **6,267,670** issued 31 July 2001.

Since Applicant has claimed priority for the present application as being a Continuation-in-Part to a series of prior applications which cover a wide range of subject matter and have little, if any, pertinence to the present application, the Examiner requests that Applicant identify where in the prior applications the features of the present invention are first disclosed. Since the prior applications also list different inventors than the present application (but with at least one common inventor), the examiner also requests that Applicant identify which inventor(s) contributed which features claimed in the present application that were also present in one or more prior application with different inventors.

Materials introduced in the instant application are granted a priority of 23 July 1999. For example, profit margins (claims 12, 13, 20, 23, 61, 82, 86) are not mentioned in any of the applications upon which applicant relies for priority.

Claim Objections

Claim 33 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim, or amend the claims to place them in proper dependent form, or rewrite the claims in independent form and pay the appropriate fees.

Claim 33 is written in dependent format in that they reference a prior method claim. However, the claims do not further limit the steps involved in the parent method claim 32. For example, claim 32 is a method claim that includes the steps of (a) detecting (b) determining a package, (c) determining a package price, (d) presenting a package offer. Claim 33 is a dependent claim that does not add, delete or alter any of the steps of the parent claim and thus "fails to further limit the subject matter of a previous claim."

Claim 33 is also improper because it fails the "infringement test" (see MPEP 608.01(n), Section III). Applying the Infringement test, what is needed to infringe claim 33, for example, is a CD-ROM having computer executable code that if and when executed would cause a computer to do the steps recited in claim 32. However, such a CD-ROM would not infringe the method steps of claim 32 since the CD-ROM itself never performs any of the active steps required by the method of claim 32. In other words, mere possession of such a CD-ROM would infringe claim 33 but would not infringe claim 32. As such claim 33 is an improper dependent claim.

Drawings

The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the following must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

Customer service device/Kiosk with bar code reader

Bar code reader

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Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112, first paragraph

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-72 and 74-126 rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to

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which it pertains, or with which it is most nearly connected, to make and/or use the invention. The claims refer to a customer's interest in a product:

- Claim 1 refers to "...detecting that a [...] product is of interest to a customer..."
- Claim 47 refers to "...indicating an interest in a [...] product..."
- Claim 74 refers to "...[device] operable to interpret data received...as indicating an expression of interest by a customer in a [...] product..."
- Claim 83 refers to "...at least one additional product of interest to the customer..."
- Claims 119-124 refer to "...detecting a loss of interest..."
- Claims 125-126 refer to "...indicating a loss of interest..."

The claims appear to require an inquiry into the customer's state of mind. For purposes of Examination, Prior Art will be seen as disclosing the limitations where prior art discloses the particular actions that applicant appears to rely upon as the basis for arriving at his particular legal conclusion.

For Claims 36-38, 58-59, 64-65, 97-99, the disclosures do not describe how a customer service device performs the claimed functions.

##	Feature
36	... receiving the primary product identifier from a <i>customer service</i> device at a retail establishment.
37	<i>customer service</i> device comprises an input device operable to input the primary product identifier and a display device operable to present the package offer.
38	<i>customer service</i> device further comprises a printer operable to print a printed version of the package offer.
58	inputting the primary product identifier into a <i>customer service</i> device at a retail establishment;
58	receiving the package offer from the <i>customer service</i> device; and
59	<i>customer service</i> device communicates with a central server to determine the package offer.
64	<i>customer service</i> device comprises an input device operable to input the primary product identifier and a display device operable to present the package offer.
65	<i>customer service</i> device further comprises a printer operable to print a printed presentation of the package offer.
97	<i>customer service</i> device at a retail establishment.
98	<i>customer service</i> device comprises an input device operable to input the primary product identifier and a display device operable to present the package offer.
99	<i>customer service</i> device further comprises a printer operable to print a printed version of the package offer.

Similarly, claims 40 and 101 appear to require a computer service device/kiosk with a bar code reader, which are not described.

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Claims 41, 58, 67 and 102, which refer to a point of sale terminal, appear to require certain functions of the point of sale terminal that are not described:

##	limitation
41	...receiving from a point of sale terminal a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, authorizing the point of sale terminal to charge a financial account identified by the account identifier for the amount of the package price.
58	...wherein being presented with the package offer comprises receiving the package offer from the customer service device; and wherein providing the customer response comprises presenting the account identifier, the primary product and the at least one secondary product, and the indication of the acceptance of the package offer at a point of sale terminal.
67	... point of sale terminal communicates with a central server to determine the package price; and wherein the point of sale terminal communicates with a financial institution to charge the package price to the financial account.
102	receive from a point of sale terminal, via the communications port, a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, send an authorization to the point of sale terminal, via the communications port, authorizing a charge to a financial account identified by the account identifier for the amount of the package price.

Claim Rejections – 35 U.S.C. 102 and 103

Claims 5, 52, 77, 112 refer to a virtual shopping cart. Claims 120-122 refer to a virtual shopping basket. The terms are interpreted as synonyms.

Claims 36-38, 58-59, 64-65, 97- 99 refer to a computer service device. For purposes of the Examination, prior art will be interpreted to meet the limitation where prior art discloses a kiosk, a portable data input device that transmits information to a central network in the form of signals that indicate acceptance or rejection of a package offer. Blinn discloses kiosks, as in Col. 5, line 49-Col. 6, line 25.

Claims 41, 58, 67 and 102 refer to point of sale terminal. For purposes of the Examination, prior art will be interpreted to meet the limitation where prior art discloses point of sales systems. Blinn discloses point of sale systems, as in Col. 2, line 42-67, Col. 23, line 25-50.

Claim Rejections - 35 USC § 102

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1, 2, 4-11, 14-15, 18-19, 21-22, 25-31, 47-49, 51-54, 57, 68, 72, 74, 76-81, 83, 87, 90-94, 108, 111-113 are rejected under 35 U.S.C.102(e) as anticipated by Blinn (US 5897622).

As per claim 1, Blinn discloses *method(s) for* determination and presentation of a package offer comprising the steps of:

detecting that a primary product is of interest to a customer (Blinn detects a customer's request for information concerning a primary item, as in Col. 16, lines 6-37 and by detecting that a customer has placed a primary item in a shopping basket, as in Col. 17, lines 42-63, for example, thereby detecting a customer's interest)

the primary product having an associated primary product identifier (Blinn discloses the use of product identifiers, as in product numbers, Col. 2, lines 11-41. For Fig. 13B, see SKU for hat, the primary product of interest);

in response to detecting that the primary product is of interest to the customer, determining a package to be offered to the customer, the package comprising the primary product and at least one secondary product, the primary product and the at least one secondary product each having a corresponding retail price. See, for example, Col. 1, lines 43-56, which discloses that in response to detecting that a primary product (such as shoes) is of interest to the customer, a package is determined

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and offered to a customer, a package comprising shoes and a pair of socks. The primary product has a corresponding retail price, and the secondary product, socks, also has a corresponding retail price.)

wherein at least one of the at least one secondary product is a product not currently selected for purchase by the customer (for example, a customer has selected to purchase a pair of shoes, Col. 1, lines 43-56), and further **wherein** at least one of the at least one secondary product is selected for inclusion in the package based on an indication of interest, by the customer, ***in the at least one secondary product*** (a customer indicates his interest in an at least one secondary product by virtue of being a member in a frequent shopper program, or part of an incentive program, for example, as in Blinn, Col. 1, lines 43-56);

in response to determining the package, determining a package price which is less than a sum of the corresponding retail prices of the primary product and the at least one secondary product (see, for example, Col. 1, lines 43-56, which shows:

package price = price of shoes + (price of socks * .50);

which is less than the sum of corresponding retail prices of the products:

retail price = price of shoes + price of socks;

presenting a package offer for sale of the package at the package price to the customer. See, for example Fig. 11 and related text, which shows presenting an adjusted price, as part of an HTML page. Col. 17, lines 1-17).

As per claim 47, Blinn discloses method(s) for assembly, presentation and redemption of a package offer comprising the steps of:

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indicating an interest in a primary product (see Col. 1, lines 43-56, where a customer indicates an interest in a pair of shoes by asking for a pair of shoes);

in response to indicating an interest in the primary product, being presented with a package offer to purchase a package at a package price, the package comprising the primary product and at least one secondary product (see references to socks, Col. 1, lines 43-56. See also Fig. 11, and related text);

wherein at least one of the at least one secondary product is a product not currently selected for purchase (socks were not currently selected for purchase, Col. 1, lines 43-56), and further **wherein** at least one of the at least one secondary product is selected for inclusion in the package based on an indication of interest, by the customer, ***in the at least one secondary product*** (the customer has expressed interest in a secondary product by being a frequent shopper or membership); and

providing a customer response comprising an account identifier and an indication of an acceptance of the package offer, the acceptance of the package offer authorizing a charge to a financial account identified by the account identifier for the amount of the package offer price (Blinn, credit card payment information, Col. 8, lines 1-16, a customer indicates acceptance of the package offer, by providing payment information, confirming completion of a purchase transaction, as in Col. 8, lines 1-16.).

As per claim 74, Blinnn discloses a system for assembly, presentation and redemption of a package offer comprising:

[server computer] a processor, a communications port in communication with the processor operable to send and receive data, Fig. 1, item 102;

a database in communication with the processor operable to store information relating to products stored by corresponding product identifiers (Fig. 2, item 121, Col. 12, line 57-Col. 13, line 23); and

wherein the processor is operable to: interpret data received via the communications port from a customer device (Fig. 1, item 100) as indicating an expression of interest by a customer in a primary product (see Col. 1, lines 43-56, where a customer, via an input device such as a keyboard Fig. 1, item 100, indicates an interest in a pair of shoes);

access the database (Fig. 4, 5, for example) to determine a package to be offered to the customer, the package comprising the primary product and at least one secondary product, the primary product and the at least one secondary product each having a corresponding retail price, See, for example, Col. 1, lines 43-56, which discloses that in response to detecting that a primary product (such as shoes) is of interest to the customer, a package is determined and offered to a customer, a package comprising shoes and a pair of socks. The primary product has a corresponding retail price, and the secondary product, socks, also has a corresponding retail price;

wherein at least one of the at least one secondary product is a product not currently selected for purchase by the customer (socks were not currently selected for purchase, Col. 1, lines 43-56), and further

wherein at least one of the at least one secondary product is selected for

inclusion in the package based on an indication of interest, by the customer, in

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the at least one secondary product (the customer has expressed interest in a secondary product by being a frequent shopper or membership); and
determine a package price which is less than the sum of the corresponding retail prices of the primary product and the at least one secondary product; see, for example, Col. 1, lines 43-56, which shows:

package price = price of shoes + (price of socks * .50);

which is less than the sum of corresponding retail prices of the products:

retail price = price of shoes + price of socks;

present a package offer for the sale of the package at the package price to the customer. See, for example Fig. 11 and related text, which shows presenting an adjusted price, as part of an HTML page. Col. 17, lines 1-17.

As per claim 108, Blinn discloses a system for assembly, presentation and redemption of a package offer comprising:

[client computer] a processor and a display device in communication with the processor (Fig. 1, client display device 100) and a communications port in communication with the processor (Fig. 1);

an input device in communication with the processor operable to generate an input signal indicating an interest in a primary product (see Col. 1, lines 43-56, where a customer, via an input device such as a keyboard Fig. 1, item 100, indicates an interest in a pair of shoes);

that the processor is operable to:

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send the input signal to a central server via a communications port (Fig. 1, a client device transmits the input signal to Blinn's system, which thus detects a customer's interest based on a customer's request for information concerning a primary item. See, for example, references to products of interest, as in Col. 1, lines 25-56.

Blinn discloses cross-selling, Col. 1, lines 43-56)

receive from the central server a package offer for purchase of a package at a package price, the package comprising the primary product and at least one secondary product,

that at least one of the at least one secondary product (socks) is a product not currently selected for purchase by the customer, and further that at least one of the at least one secondary product is selected for inclusion in the package based on an indication of interest, by the customer, in the at least one secondary product. Blinn shows that a customer has selected to purchase a pair of shoes, Col. 1, lines 43-56), and a pair of socks is selected for inclusion in the package based on an indication of interest, by the customer, in the at least one secondary product (a customer indicates his interest in an at least one secondary product by virtue of being a member in a frequent shopper program, or part of an incentive program, for example. See also Fig. 13B, which shows a primary product HAT and a secondary product such as a scarf);

display the package offer on the display device. (Blinn, Fig. 11 and related text, which shows presenting an adjusted price, as part of an HTML page. Col. 17, lines 1-17. this is displayed on client computer).

Claim 2 is rejected on the same grounds as claim 1.

As per claim 4, Blinn discloses that detecting that the primary product is of interest to the customer comprises detecting an input signal generated by the customer in response to information displayed on a web-page relating to the primary product. A customer requests information concerning an item of interest, GLOVE, the primary product. See references to keyword search, as in Col. 8, lines 17-34. The search produces information concerning the desired primary product GLOVE, which is then displayed on a web-page at the client computer. See Fig. 2, item 122, customer browser. In response to this display of information, the customer at the client machine further manifests his interest in a primary product (GLOVE) by using his keyboard or other input device at the client machine, generating an input signal that is detected by the client machine and is transmitted to Merchant System 120, Fig. 2. Merchant System detects the input signal that manifests the customer's interest in primary product GLOVE.

As per claim 5, Blinn discloses that detecting that the primary product is of interest to the customer comprises detecting that the customer has added the primary product to a virtual shopping cart. Col. 8, lines 1-16, Col. 17, lines 18-63, Col. 21, lines 17-34.

As per claim 6, Blinn discloses that detecting that the primary product is of interest to the customer comprises: detecting at least one keyword input by the customer into an input field on a web-page (as in Col. 7, lines 42-53, Col. 8, lines 17-34) and determining that the at least one keyword relates to the primary product ("GLOVE").

As per claim 7, Blinn discloses that detecting that the primary product is of interest to the customer comprises receiving a customer request for a customer requested package associated with the primary product. See, for example, at least Col. 1, lines 43-56, which discloses a package (primary product shoes and secondary product socks at a package price, Col. 8, lines 1-16, package price = price of shoes + (price of socks * .50). See Col. 8, lines 1-16, which shows that a customer orders the items in the shopping basket, thereby requesting the package of shoes and socks associated with the primary product shoes).

As per claim 8, Blinn discloses that determining the package to be offered to the customer comprises: accessing a database (for example, Fig. 2, item 121, Col. 12, line 57-Col. 13, line 23) to locate a pre-determined package associated with the primary product identifier (Col. 18, line 25-Col. 19, line 15).

Claim 9 is rejected on the same grounds as claim 8.

As per claim 10, Blinn discloses that determining the package to be offered to the customer comprises accessing a database (for example, Fig. 2, item 121, Col. 12, line 57-Col. 13, line 23) to select the at least one secondary product from a plurality of available secondary products (HAT, SCARF), the selected at least one secondary product (HAT, SCARF) having a predetermined relationship with the primary product (Col. 18, line 25-Col. 19, line 15, primary product GLOVE).

Claim 11 is rejected on the same grounds as claim 10.

As per claim 14, Blinn discloses

storing, in a database, information relating to at least one additional product of interest to the customer (Fig. 2, database 121, Col. 12, line 57-Col. 13, line 23); and that determining the package to be offered to the customer comprises:

accessing the database to determine the at least one additional product of interest to the customer (for example, Fig. 2, item 121, Col. 12, line 57-Col. 13, line 23);

selecting the at least one additional product of interest to the customer as the at least one secondary product (Col. 18, line 25-Col. 19, line 15; the additional product is of interest to the customer by the fact that the customer has selected it and placed it in the shopping basket, See Col. 8, lines 1-16).

Claim 15 is rejected on the same grounds as claim 14.

As per claim 18, Blinn discloses that determining the package price comprises: determining a discounted price for each of the at least one secondary product; and summing the retail price of the primary product and the discounted price for the at least one secondary product to calculate the package price. See, for example, Col. 1, lines 43-56, which shows: package price = price of shoes + (price of socks * .50).

Claim 19 is rejected on the same grounds as claim 18.

As per claim 21, Blinn discloses that determining the package price comprises: determining a discounted price for the each of the primary product and the at least one secondary product (see, for example, references to price adjustment stage, as in Col. 16, lines 27-367); and

summing the discounted prices of the primary product and the at least one secondary product to calculate the package price. See, for example, references to order price adjust stage, as in Col. 20, line 27 to Col. 21, line 5.

Claim 22 is rejected on the same grounds as claim 21.

As per claim 25, Blinn discloses in response to presenting the package offer to the customer, receiving a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, charging a financial account identified by the account identifier for the amount of the package price. (Blinn, credit card payment information, Col. 8, lines 1-16, a customer indicates acceptance of the package offer, by providing payment information, confirming completion of a purchase transaction, as in Col. 8, lines 1-16.).

As per claim 26, Blinn discloses storing transaction data relating to sale of the package in a database. Blinn, Col. 6, line 47-Col. 7, line 3, Col. 23, lines 11-24.

As per claim 27, Blinn discloses that a first package offer for sale of a first package at a first package price is presented to the customer; and that a second package offer for sale of a second package at a second package price is presented to the customer. See, for example, Fig. 7 and related text, which shows a first package that has a glove and a hat, and see Fig. 13B and related text, which shows a second package, including a hat and a scarf. Each package has a combined price.

Claim 28 is rejected on the same grounds as claim 27.

As per claim 29, Blinn discloses that the package comprises the primary product (SHOES) and a plurality of secondary products (1 pair, i.e., 2 SOCKS); and

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that the package offer comprises an offer for sale of a pre-determined number of the secondary products (2 SOCKS), selected by the customer, at the package price. Col. 1, lines 43-56.

Claim 30 is rejected on the same grounds as claim 29.

As per claim 31, Blinn discloses that the package comprises the primary product (SHOES) and a plurality of secondary products (SOCKS); and that the package offer comprises an offer for sale of a customer-selected number of the secondary products (2 socks) , selected by the customer, at the package price. Col. 1, lines 43-56.

Claim 48 is rejected on the same grounds as claim 47.

Claim 49 [package price is less] is rejected on the same grounds as claim 18.

Claim 51 is rejected on the same grounds as claim 4.

Claim 52 is rejected on the same grounds as claim 5.

Claim 53 is rejected on the same grounds as claim 6.

As per claim 54, Blinn discloses obtaining the primary product and the at least one secondary product from the retailer after providing the customer response indicating the acceptance of the package offer. Blinn, Col. 8, lines 1-16. See also references to shipping stage, as in Col. 20, line 27-Col. 21, line 5.

As per claim 57, Blinn discloses that obtaining the primary product and the at least one, secondary products comprises receiving a shipment containing the primary product and the at least one secondary product. Blinn, Col. 8, lines 1-16. See also references to shipping stage, as in Col. 20, line 27-Col. 21, line 5.

As per claim 68, Blinn discloses that indicating the interest in the primary

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product comprises requesting a package associated with the primary product. Blinn shows that a customer has selected to purchase a pair of shoes, Col. 1, lines 43-56.

Claim 72, is rejected on the same grounds as claim 57.

Claim 76 is rejected on the same grounds as claim 4.

Claim 77 is rejected on the same grounds as claim 5.

Claim 78 is rejected on the same grounds as claim 6.

Claim 79 is rejected on the same grounds as claim 7.

Claim 80 is rejected on the same grounds as claim 8.

Claim 81 is rejected on the same grounds as claim 10.

Claim 83 is rejected on the same grounds as claim 14.

Claim 87 is rejected on the same grounds as claim 21.

Claim 90 is rejected on the same grounds as claim 25.

Claim 91 is rejected on the same grounds as claim 26.

Claim 92 is rejected on the same grounds as claim 27.

Claim 93 is rejected on the same grounds as claim 29.

Claim 94 is rejected on the same grounds as claim 31.

Claim 111 is rejected on the same grounds as claim 4.

Claim 112 is rejected on the same grounds as claim 5.

Claim 113 is rejected on the same grounds as claim 6.

Claim Rejections - 35 USC § 103

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The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 3, 12-13, 16-17, 20, 23-24, 32-33, 36-43, 50, 58-67, 75, 82, 84-86, 88-89, 95-104, 109, 110, 115-117 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn, above.

As per claim 3, Blinn ***does not*** specifically disclose detecting that information relating to the primary product is displayed on a web-page viewed by the customer for a pre-determined amount of time. *Official Notice* is taken that it is old and well known to measure duration of time spent by a customer viewing information displayed on a web page. Therefore, it would have been obvious to one of ordinary skill at the time the invention was made to combine Blinn and general knowledge to disclose detecting that information relating to the primary product is displayed on a web-page viewed by the customer for a pre-determined amount of time.

One of ordinary skill at the time the invention was made would have been motivated to combine Blinn and general knowledge to disclose detecting that information relating to the primary product is displayed on a web-page viewed by the customer for a pre-determined amount of time for the obvious reason that such measurement are useful for judging the effectiveness of advertising products on a web page.

As per claim 12, Blinn ***does not*** mention profit margins. *Official Notice* is taken that merchants price package offers according to multiple factors, including profit margins of products (first ...nth) included in a package.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn with knowledge of one of ordinary skill in the art at the time the invention to disclose that determining the package to be offered to the customer comprises accessing a database to select the at least one secondary product from a plurality of available secondary products based on at least one of the profit margin of the primary product and the profit margin of the at least one secondary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn with knowledge of one of ordinary skill in the art at the time the invention to disclose that determining the package to be offered to the customer comprises accessing a database to select the at least one secondary product from a plurality of available secondary products based on at least one of the profit margin of the primary product and the profit margin of the at least one secondary product; for the obvious reason that merchants often discount their products or have sales to promote their products.

Claim 13 is rejected on the same grounds as claim 12.

As per claim 20, Blinn **does not** mention profit margins; see claim 20 for Official Notice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that a discounted price for each of the at least one secondary product is based on a profit margin of the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to disclose that a discounted price for each of the at

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least one secondary product is based on a profit margin of the primary product for the obvious reason that merchants often discount their products or have sales to promote their products.

As per claim 23 Blinn **does not** mention profit margins; see claim 20 for Official Notice. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that the discounted price for each of the primary product and the at least one secondary products is based on a profit margin of the primary product and a profit margin of the at least one secondary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to disclose that discounted price for each of the primary product and the at least one secondary products is based on a profit margin of the primary product and a profit margin of the at least one secondary product for the obvious reason that merchants often discount their products or have sales to promote their products.

As per claim 24, Blinn **does not** specifically disclose that in response to presenting the package offer to the customer, receiving a customer response indicating a rejection of the package offer; and in response to the customer response, determining another package to be offered to the customer. Official Notice is taken that it is common to present alternate offers to a customer when a customer indicates rejection of a first offer. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that in response to presenting the package offer to the customer, receiving a customer response indicating

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a rejection of the package offer; and in response to the customer response, determining another package to be offered to the customer. One of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that in response to presenting the package offer to the customer, receiving a customer response indicating a rejection of the package offer; and in response to the customer response, determining another package to be offered to the customer for the obvious reason that the first offer may not contain an item that a customer may wish to purchase.

As per claim 32, Blinn does not specifically disclose that the package price varies based on the customer-selected number of secondary products. Official Notice is taken that it is old and well known to calculate a different price for a particular product based on the quantity of the product purchased.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that a package price varies based on a customer-selected number of secondary products.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to disclose that a package price varies based on a customer-selected number of secondary products for the obvious reason that retailers may make more money by selling more than one of an item.

As per claim 33, this claim is rejected on the same grounds as claim 32.

As per claim 36, Blinn discloses that detecting that the primary product is of interest to the customer comprises receiving the primary product identifier from a

customer service device such as an interactive kiosk, Col. 5, line 49-Col. 6, line 25.

Blinn **does not** specify what functions may be performed by the interactive kiosk.

Official Notice is taken that interactive kiosks, with I/O devices (keypad, scanner, card readers, sticks, displays, printers, speakers, for example), are notoriously well known and permit customers to interact with retailer systems to perform many functions that a customer performs from home.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and knowledge concerning customer service devices such as kiosks to disclose detecting that the primary product is of interest to the customer comprises receiving the primary product identifier from a customer service device such as a kiosk at a retail establishment.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and knowledge concerning customer service devices such as kiosks to disclose detecting that the primary product is of interest to the customer comprises receiving the primary product identifier from a customer service device such as a kiosk at a retail establishment for the obvious reason that retailers may prefer to deliver product related information to customers within their establishment, perhaps using internet-based information servers and sales agents.

As per claim 37, Blinn discloses interactive Kiosks, as above, which a customer may use perform, at a retailer's, many functions that a customer performs from home. Blinn discloses inputting (an input device such as a keypad, for example) the primary

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product identifier and a display device (an output device such as a screen) operable to present the package offer. See, for example, Col. 5, line 49-Col. 6, line 25.

As per claim 38, Blinn **does not** specifically disclose that the customer service device (interactive kiosk) further comprises a printer operable to print a printed version of the package offer. As noted above, kiosks have I/O devices, including printers. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and notorious knowledge about kiosks to disclose that a customer service device such as Blinn's interactive kiosk, to comprise a printer operable to print a printed version of the package offer.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and notorious knowledge about kiosks to disclose that a customer service device such as Blinn's interactive kiosk, to comprise a printer operable to print a printed version of the package offer for the obvious reason that customers may wish to have a printed copy of the information for later reading.

As per claim 39, Blinn **does not** specifically disclose that the printed version [of the package offer] comprises a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that the printed version [of the package offer] comprises a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package.

One of ordinary skill would have been motivated to extend Blinn to disclose that the printed version [of the package offer] comprises a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package for the obvious reason that this may enable the customer to obtain the products from a sales person at a retailer's with the confidence that the printed version contains accurate information.

As per claim 40, Blinn **does not** specifically disclose that the input device at a customer service device such as a kiosk comprises a bar code reader. *Official Notice* is taken that customer service devices such as kiosks often have an input device that comprises a bar code reader. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and well known information to disclose that the input device at a customer service device such as a kiosk to comprise a bar code reader.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and well known information to disclose that the input device at a customer service device such as a kiosk to comprise a bar code reader for the obvious reason that having that particular type of input device permits users to scan complex information into a customer service device and avoid typing errors.

As per claim 41, Blinn discloses point of sale systems, as in Col. 2, lines 42-67, Col. 23, lines 25-50. Blinn discloses receiving [...] a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, authorizing [...] to charge a financial account identified by the

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account identifier for the amount of the package price. Blinn, Col. 8, lines 1-16, a customer indicates acceptance of the package offer, by providing payment information, confirming completion of a purchase transaction, as in Col. 8, lines 1-16.)

Blinn **does not** specifically disclose that receiving [...] a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, authorizing [...] to charge a financial account identified by the account identifier for the amount of the package price takes place at a point of sale terminal. *Official Notice* is taken that a Point of Sale system may include point of sales terminals that may be used to capture data at the time and place of sale; POS systems use personal computers or specialized terminals that are combined with cash registers, optical scanners for reading product tags and/or magnetic card readers for reading credit cards; POS systems may be online to a central computer for credit checking and inventory updating.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and knowledge of POS systems to disclose receiving from a *point of sale* terminal a customer response indicating an account identifier and an acceptance of the package offer; and in response to the customer response, authorizing the *point of sale* terminal to charge a financial account identified by the account identifier for the amount of the package price.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and notorious knowledge concerning point of sale to disclose receiving from a *point of sale* terminal a customer response indicating an

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account identifier and an acceptance of the package offer; and in response to the customer response, authorizing the *point of sale* terminal to charge a financial account identified by the account identifier for the amount of the package price for the obvious reason that point of sale systems permit customers to carry out transactions at a retailer's as well as from home.

As per claim 42, Blinn **does not** specifically disclose that the customer response further indicates a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package. It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to accept a customer response that further indicates a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to accept a customer response that further indicates a code identifying the package offer and product identifiers for the primary product and the at least one secondary product included in the package for the obvious reason that POS terminals may permit a merchant to update their inventory.

As per claim 43, Blinn discloses storing transaction data. Blinn, Col. 6, line 47-Col. 7, line 3, Col. 23, lines 11-24.

Claim 50 is rejected on the same grounds as claim 3.

As per claim 58, Blinn **discloses** that the primary product has an associated primary product identifier; that indicating an interest in the primary product comprises

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inputting the primary product identifier [...] that being presented with the package offer comprises receiving the package offer [...] that providing the customer response comprises presenting the account identifier, the primary product and the at least one secondary product, and the indication of the acceptance of the package offer [...], as in claim 47, above.

Blinn **does not** specifically disclose these limitations as occurring at specific physical locations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn with knowledge of a notorious nature concerning customer service devices (e.g., kiosks) and Point of sale terminals to disclose that these customer actions take place at these particular types of devices.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn with knowledge of a notorious nature concerning customer service devices (e.g., kiosks) and Point of sale terminals to disclose that a primary product has an associated primary product identifier; wherein indicating an interest in the primary product comprises inputting the primary product identifier into a **customer service device** at a retail establishment; wherein being presented with the package offer comprises receiving the package offer from the **customer service device**; and wherein providing the customer response comprises presenting the account identifier, the primary product and the at least one secondary product, and the indication of the acceptance of the package offer at a **point of sale** terminal for the obvious reason that customers may prefer to have the latest version of a purchase and

obtain the products from a sales person at a retailer's with the confidence that the in-store version contains the most recent and accurate information.

As per claim 59, Blinn **discloses** that the customer service device communicates with a central server to determine the package offer. Blinn, Fig. 1, a client device transmits the input signal to the central server. See references to products of interest, as in Col. 1, lines 25-56. Blinn discloses cross-selling, Col. 1, lines 43-56) . on the display device. Blinn, Fig. 11 and related text, show presenting a package that has been determined, Col. 17, lines 1-17.

As per claim 60, Blinn discloses that the central server retrieves the package offer from a database, the package offer being stored in the database in association with the primary product identifier. Blinn, Fig. 13, cross_sell table, and related text.

Claim 61 is rejected on the same grounds as claim 13.

As per claim 62, Blinn discloses that the central server communicates with a database to assemble the package offer; that the database stores information relating to at least one additional product in which the customer has indicated an interest; and that the at least one secondary product is selected based on the at least one additional products. Blinn, Col. 1, lines 43-46.

As per claim 63, Blinn discloses that the central server communicates with a database to assemble the package offer; that the database stores information relating to at least one previous transaction (membership and frequent shoppers, the previous transaction including a previously sold product as in Col. 1, lines 43-56. Blinn discloses that the at least one secondary product is selected based on a relationship with the

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previously sold product. Blinn, Col. 1, lines 43-46, Fig. 11 and related text, and references to relationship between primary and secondary products in that they are related via cross_sell table, for example. Blinn **does not** specifically disclose that to determine the package offer, the at least one secondary product is selected from available secondary products based on a profit margin of the primary product.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that to determine the package offer, the at least one secondary product is selected from available secondary products based on a profit margin of the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to disclose that to determine the package offer, the at least one secondary product is selected from available secondary products based on a profit margin of the primary product for the obvious reason that merchants often discount their products or have sales to promote their products.

Claim 64 is rejected on the same grounds as claim 37.

Claim 65 is rejected on the same grounds as claim 38.

Claim 66 is rejected on the same grounds as claim 40.

As per claim 67, Blinn discloses point of sale systems, Col. 2, lines 42-67, Col. 23, lines 25-50. Blinn discloses that client machines communicate with central servers to determine package prices (see rejection of claims 1, 47 and 74) and that they communicate with financial institutions to charge a package to a financial account (Blinn, credit card payment information, Col. 8, lines 1-16, a customer indicates

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acceptance of the package offer, by providing payment information, confirming completion of a purchase transaction, as in Col. 8, lines 1-16.). Blinn **does not** provide specific examples to show that the *point of sale* terminal communicates with a central server to determine the package price; and that the *point of sale* terminal communicates with a financial institution to charge the package price to the financial account. These functions are often found in point of sale systems and terminals. See point of sale, claim 41.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and knowledge concerning functions of point of sale system terminals to disclose show that the ***point of sale*** terminal communicates with a central server to determine the package price; and that the ***point of sale*** terminal communicates with a financial institution to charge the package price to the financial account.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and knowledge concerning functions of point of sale system terminals to disclose show that the *point of sale* terminal communicates with a central server to determine the package price; and that the *point of sale* terminal communicates with a financial institution to charge the package price to the financial account for the obvious reason that by doing so, a retailer may increase productivity of his staff and reduce input errors.

Claim 73 was cancelled.

Claim 75 is rejected on the same grounds as claim 3.

Claim 82 is rejected on the same grounds as claim 12.

Claim 84 is rejected on the same grounds as claim 16.

Claim 85 is rejected on the same grounds as claim 18.

Claim 86 is rejected on the same grounds as claim 20.

Claim 88 is rejected on the same grounds as claim 23.

Claim 89 is rejected on the same grounds as claim 24.

Claim 95 is rejected on the same grounds as claim 32.

Claim 96 is rejected on the same grounds as claim 34.

Claim 97 is rejected on the same grounds as claim 36.

Claim 98 is rejected on the same grounds as claim 37.

Claim 99 is rejected on the same grounds as claim 38.

Claim 100 is rejected on the same grounds as claim 39.

Claim 101 is rejected on the same grounds as claim 40.

Claim 102 is rejected on the same grounds as claim 41.

Claim 103 is rejected on the same grounds as claim 42.

Claim 104 is rejected on the same grounds as claim 43.

Claim 109 is rejected on the same grounds as claim 25.

Claim 110 [price is less] is rejected on the same grounds as claim 18.

As per claim 115, Blinn discloses that the input device is further operable to generate a request for shipment of the primary product and the at least one secondary product in response to sending the customer response. Col. 8, lines 1-16. see references to shipping stage, as in Col. 20, line 27-Col. 21, line 5.

Claim 116 is rejected on the same grounds as claim 39.

As per claim 117, Blinn discloses that the input signal indicating an interest in the primary product comprises a request for a package associated with the primary product. See, for example, at least Col. 1, lines 43-56, which discloses a package (primary product shoes and secondary product socks at a package price, Col. 8, lines 1-16, package price = price of shoes + (price of socks * .50). See Col. 8, lines 1-16, which shows that a customer orders the items in the shopping basket, thereby requesting the package of shoes and socks associated with the primary product shoes).

Claims 16-17, 34-35 are rejected under 35 U.S.C. 103(a) as being unpatentable as unpatentable over Blinn, above, in view of Gupta (US 6820062).

As per claim 16, Blinn discloses storing in a database information relating to a previous transaction of the customer, the previous transaction including at least one previously sold product (Blinn, Col. 21, lines 6-34, which shows saving orders, which includes primary and secondary products). Blinn **does not** specifically disclose that determining the package to be offered to the customer comprises: accessing the database to determine the at least one previously sold product, and accessing the database to select the at least one secondary product from a plurality of available secondary products, the selected at least one secondary product having a predetermined relationship with the at least previously sold product. Gupta discloses tailoring packages according to shopper's buying patterns. Col. 5, lines 34-48.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Gupta to disclose that determining the package to be offered to a customer comprises: accessing a database to determine the at least one previously sold product, and accessing the database to select the at least one secondary product from a plurality of available secondary products, the selected at least one secondary product having a predetermined relationship with the at least previously sold product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Gupta to disclose that determining the package to be offered to a customer comprises: accessing a database to determine the at least one previously sold product, and accessing the database to select the at least one secondary product from a plurality of available secondary products, the selected at least one secondary product having a predetermined relationship with the at least previously sold product for the obvious reason that a retailer may wish to adjust his sales strategy according to historical data.

Claim 17 is rejected on the same grounds as claim 16.

As per claim 34, Blinn **does not** specifically disclose that a package comprises the primary product and a plurality of lists of secondary products; and that the package offer comprises an offer for sale of a pre-determined number of the secondary products selected by the customer from each of the plurality of lists, at the package price. This is disclosed by Gupta (US 6820062) Col. 9, lines 32-50, for example. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine

Blinn and Gupta to disclose that a package comprises the primary product and a plurality of lists of secondary products; and that the package offer comprises an offer for sale of a pre-determined number of the secondary products selected by the customer from each of the plurality of lists, at the package price.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Gupta to disclose that a package comprises the primary product and a plurality of lists of secondary products; and that the package offer comprises an offer for sale of a pre-determined number of the secondary products selected by the customer from each of the plurality of lists, at the package price for the obvious reason that a shopper may appreciate an offer of help in finding complementary products.

Claim 35 is rejected on the same grounds as claim 34.

Claims 44-46, 54-56, 69-72, 105-107, 114, 118, are rejected under 35 U.S.C. 103(a) as being as unpatentable over Blinn, above, in view of Alba (Interactive home shopping: Consumer, retailer, and manufacturer incentives to participate in electronic marketplaces, Joseph Alba, John Lynch, Barton Weitz, Chris Janiszewski, et al. Journal of Marketing. Chicago: Jul 1997. Vol.61, Iss.3;pg.38, 20 pages, downloaded from the Internet on 30 January 2006).

As per claim 44, Blinn discloses the limitations of parent claim 1, as above. Blinn does not specifically disclose **storing** in a database information relating to a plurality of available secondary products sold by the retailer; and that determining the

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package to be offered to the customer comprises **accessing** the database to select the at least one secondary product from the plurality of available secondary products, the at least one secondary product having a predetermined relationship with the primary product. This is disclosed by Alba. See, for example, page 11, paragraph 4, which discloses putting together complementary bundles of products from multiple suppliers, such as applicant's retailers.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Alba to disclose **storing** in a database information relating to a plurality of available secondary products sold by the retailer; and that determining the package to be offered to the customer comprises **accessing** the database to select the at least one secondary product from the plurality of available secondary products, the at least one secondary product having a predetermined relationship with the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Alba to disclose **storing** in a database information relating to a plurality of available secondary products sold by the retailer; and that determining the package to be offered to the customer comprises **accessing** the database to select the at least one secondary product from the plurality of available secondary products, the at least one secondary product having a predetermined relationship with the primary product for the obvious reason that diversified vendors that own subunits that are only modestly related to each other in terms of the customer goal they service could realize synergies not possible with conventional channels.

As per claim 45, Blinn ***discloses*** receiving a customer response indicating an account identifier and an acceptance of the package offer; in response to the customer response, charging a financial account identified by the account identifier for the amount of the package price; and in response to charging the financial account, authorizing the first ***retailer*** to deliver the primary product to the customer and authorizing the first ***retailer*** to deliver the at least one secondary product to the customer. See rejection of claim 1.

Blinn does not specifically disclose that in response to charging the financial account, authorizing the first retailer to deliver the primary product to the customer and authorizing the second retailer to deliver the at least one secondary product to the customer. Official Notice is taken that acceptance of a customer charge to a financial account often serves as an authorization to a vendor to deliver the product to the customer.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to extend Blinn to disclose that in response to charging the financial account, authorizing the first retailer to deliver the primary product to the customer and authorizing the second retailer to deliver the at least one secondary product to the customer. One of ordinary skill in the art at the time the invention was made would have been motivated to extend Blinn to disclose that in response to charging the financial account, authorizing the first retailer to deliver the primary product to the customer and authorizing the second retailer to deliver the at least one secondary product to the customer for the obvious reason that customers may expect a vendor to

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deliver a product after the customer has paid for it. When vendors such as retailers fail to deliver a paid-for purchased product, customers may become irate.

As per claim 46, Blinn does not specifically disclose distributing an appropriate portion of the charged package price to each of the first retailer and the second retailer. Official Notice is taken that settlement of accounts often entails distributing an appropriate portion of a charged package price to each retailer whose products are in the package.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to disclose distributing an appropriate portion of the charged package price to each of the first retailer and the second retailer. One of ordinary skill in the art at the time the invention was made would have been motivated to disclose distributing an appropriate portion of the charged package price to each of the first retailer and the second retailer for the obvious reason that failure to do this may result in law suits.

As per claim 55, Blinn does not specifically disclose that obtaining the primary product and the at least one secondary product from the *retailer* comprises visiting a retail establishment of the *retailer* to pick up the primary product and the at least one secondary product. Tice discloses that it was old and well known to allow customer to pick up items purchased via a web site by visiting retail establishments at the time of Applicants' invention.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Tice to disclose that obtaining the

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primary product and the at least one secondary product from the retailer comprises visiting a retail establishment of the retailer to pick up the primary product and the at least one secondary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Tice to disclose that obtaining the primary product and the at least one secondary product from the retailer comprises visiting a retail establishment of the retailer to pick up the primary product and the at least one secondary product for the obvious reason that a customer may wish to pick up his products at a local site, perhaps close to where the product will be used.

As per claim 56, Blinn does not specifically *disclose* receiving a code from the retailer; and upon visiting the retail establishment, presenting the code to the retailer, whereby the retailer may use the code to verify that the financial account has been charged in the amount of the package price. This is disclosed by Tice.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Tice to *disclose* receiving a code from the retailer; and upon visiting the retail establishment, presenting the code to the retailer, whereby the retailer may use the code to verify that the financial account has been charged in the amount of the package price for the obvious reason that by presenting such a code, customers and retailers can lessen confusion since the code may provide a common reference to the specific items purchased.

Claim 69 is rejected on the same grounds as claim 44.

Claim 70, [plurality of retailers] is rejected on the same grounds as claim 55.

Claim 71, [plurality of retailers] is rejected on the same grounds as claim 56.

Claim 105 is rejected on the same grounds as claim 44.

Claim 106 is rejected on the same grounds as claim 45.

Claim 107 [facilitate] is rejected on the same grounds as claim 46.

Claim 114 is rejected on the same grounds as claim 56.

Claim 118, is rejected on the same grounds as claim 69.

Claims 119-126 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blinn, above, in view of Bernard (US 5918213).

As per claim 119, Blinn discloses method for determination and presentation of a package offer comprising the steps of:

detecting that a primary product is of interest to a customer (Blinn detects a customer's interest based on a customer's request for information concerning a primary item. Col. 16, lines 6-37.)

the primary product having an associated primary product identifier (Blinn discloses the use of product identifiers, as in product numbers, Col. 2, lines 11-41. For Fig. 13B, see SKU for hat, the primary product of interest);

determining a package to be offered to the customer, the package comprising the primary product and at least one secondary product, the primary product and the at least one secondary product each having a corresponding retail price. See, for example, Col. 1, lines 43-56, which discloses that in response to detecting that a primary product (such as shoes) is of interest to the customer, a package is determined

and offered to a customer, a package comprising shoes and a pair of socks. The primary product has a corresponding retail price, and the secondary product, socks, also has a corresponding retail price.)

in response to determining the package, determining a package price which is less than a sum of the corresponding retail prices of the primary product and the at least one secondary product (see, for example, Blinn, Col. 1, lines 43-56, which shows:

package price = price of shoes + (price of socks * .50);

which is less than the sum of corresponding retail prices of the products:

retail price = price of shoes + price of socks;

presenting a package offer for sale of the package at the package price to the customer. See, for example Blinn, Fig. 11 and related text, which shows presenting an adjusted price, as part of an HTML page. Col. 17, lines 1-17).

Blinn **does not** specifically disclose detecting a loss of interest in the primary product by the customer and that determining a package to be offered to a customer occurs in response to detecting the loss of interest in the primary product.

Bernard discloses tracking events such as when a customer removes items from a shopping cart, thereby detecting a loss of interest in a primary product by customers. See, for example, Bernard, Col. 33, lines 4-63. Bernard discloses permitting a customer to review items and offers coupons and promotions to customers for all items. In Bernard, see at least Col. 5, line 26-Col. 6, line 49.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Bernard to disclose detecting a loss of

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interest in the primary product by the customer and that determining a package to be offered to a customer occurs in response to detecting the loss of interest in the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Bernard to disclose detecting a loss of interest in the primary product by the customer and that determining a package to be offered to a customer occurs in response to detecting the loss of interest in the primary product for the obvious reason that merchants often wish to provide maximum flexibility to a customer by permitting a customer to review the items in a *shopping basket* and may offer packages or discounts on removed items to prevent customers from walking out and possibly buying the same primary item at a competitor.

As per claim 120, Blinn ***does not*** specifically disclose that detecting a loss of interest in the primary product comprises detecting that the customer has removed the primary product from a virtual shopping basket associated with the customer. Bernard, Col. 5, line 58-Col. 6, line 10, discloses detecting that a customer has removed items that he no longer wishes to purchase, thereby detecting a loss of interest in a primary product.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Bernard to disclose detecting that the customer has removed the primary product from a virtual shopping basket associated with the customer, thereby detecting a loss of interest in the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Bernard to disclose detecting that the customer has removed the primary product from a virtual shopping basket associated with the customer, thereby detecting a loss of interest in the primary product for the obvious reason that a business may wish to provide maximum flexibility to a customer and allow the customer to remove items from a shopping cart that the customer no longer wishes to purchase.

As per claim 121, Blinn discloses that detecting a loss of interest in a primary product comprises determining that the customer has expressed interest in another product without having placed the primary product in a virtual shopping basket. Blinn detects a customer's interest based on a customer's request for information concerning a primary item, as in Col. 16, lines 6-37.

As per claim 122 Blinn does not specifically disclose that detecting a loss of interest in the primary product comprises determining that the primary product has been in a virtual shopping basket associated with the customer for a predetermined amount of time without having been purchased. Bernard discloses detecting that customers browse through selections without making purchases, as in Bernard, Col. 32, lines 56-Col. 33, line 16. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Bernard to disclose determining that the primary product has been in a virtual shopping basket associated with the customer for a predetermined amount of time without having been purchased, thereby detecting a loss of interest in the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Bernard to disclose determining that the primary product has been in a virtual shopping basket associated with the customer for a predetermined amount of time without having been purchased, thereby detecting a loss of interest in the primary product for the obvious reason that such information may be useful for a business to avoid abuse of browsing functions in an automated product purchasing system.

Claim 123 is rejected on the same grounds as claim 119.

Claim 124 is rejected on the same grounds as claim 119.

As per claim 125, Blinn discloses methods for assembly, presentation and redemption of a package offer comprising the steps of

indicating an interest in a primary product (Blinn, see Col. 1, lines 43-56, where a customer indicates an interest in a pair of shoes);

being presented with a package offer to purchase a package at a package price, the package comprising the primary product and at least one secondary product (see references to socks, Col. 1, lines 43-56. See also Fig. 11, and related text);

providing a customer response comprising an account identifier and an indication of an acceptance of the package offer, the acceptance of the package offer authorizing a charge to a financial account identified by the account identifier for the amount of the package offer price (credit card payment information, Blinn, Col. 8, lines 1-16, a customer indicates acceptance of the package offer, by providing payment information, confirming completion of a purchase transaction, as in Col. 8, lines 1-16.)

Blinn **does not** specifically disclose indicating a loss of interest in the primary product and that being presented with a package offer occurs in response to detecting the loss of interest in the primary product.

Bernard discloses tracking events such as when a customer removes items from a shopping cart, thereby detecting a loss of interest in a primary product by customers. See, for example, Bernard, Col. 33, lines 4-63. Bernard discloses permitting a customer to review items and offers coupons and promotions to customers for all items. In Bernard, see at least Col. 5, line 26-Col. 6, line 49.

It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine Blinn and Bernard to disclose indicating a loss of interest in the primary product and that being presented with a package offer occurs in response to detecting the loss of interest in the primary product.

One of ordinary skill in the art at the time the invention was made would have been motivated to combine Blinn and Bernard to disclose indicating a loss of interest in the primary product and that being presented with a package offer occurs in response to detecting the loss of interest in the primary product for the obvious reason that merchants often wish to provide maximum flexibility to a customer by permitting a customer to review the items in a *shopping basket* and may offer packages or discounts on removed items to prevent customers from walking out and possibly buying the same primary item at a competitor.

Claim 126 is rejected on the same grounds as claim 125.

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Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to James H. Zurita whose telephone number is 571-272-6766. The examiner can normally be reached on 8a-5pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 571-272-7159. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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